103 FERC ¶ 61,271

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Entergy Services, Inc. Docket Nos. ER02-2014-008
ER02-2014-009
ER02-2014-005

ORDER ON REHEARING, CLARIFICATION, AND REQUEST FOR STAY

(Issued June 4, 2003)

1. On March 13, 2003, we issued an order[1] accepting, subject to modification, a revised Directional Generator Operator Limits (GOL)[2] proposal filed by Entergy Services, Inc. (Entergy).[3] This order grants in part and denies in part requests for rehearing and clarification of the March 13 Order. Furthermore, we deny a request for stay of that order. In addition, we dismiss as moot Entergy's request for rehearing of an

[1]Entergy Services, Inc., 102 FERC ¶ 61,281 (2003) (March 13 Order).

[2]Entergy's Directional GOL procedure calculates transfer capability for short-term firm point-to-point transmission service requests to Entergy's interfaces with other control areas. On February 28, 2003, Entergy filed another revision to its Attachment Q to add an Internal GOL procedure, which was accepted, subject to modifications, in 103 FERC ¶ 61,270 (2003). Entergy's Internal GOL procedure is designed for short-term network and firm point-to-point transmission service within Entergy's control area. All references to GOL in this order are to the Directional GOL procedure.

[3]The filing was made by Entergy Services, Inc. on behalf of the Entergy Operating Companies. The Entergy Operating Companies include: Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc.

order on rehearing issued on October 11, 2002,[4] in which we directed Entergy to cease using its unfiled Original GOL procedure.

I. Background

2. On June 3, 2002, Entergy filed Attachment Q to its OATT,[5] which proposed a GOL procedure (Initial Proposed GOL) to address local transmission constraints on the Entergy transmission system and to provide a process for generators to participate in short-term bulk power markets without first submitting each proposed transaction for a System Impact Study (SIS). The GOL procedure set forth the methodology for evaluating local transmission constraints on Entergy's transmission system. Entergy further stated that the GOL is the MW value up to which a generating facility, or group of generating facilities, can ordinarily be operated on a short-term basis without compromising local transmission reliability and without requiring an SIS. In an order issued on August 2, 2002,[6] the Commission accepted the Initial Proposed GOL filing, suspended its effectiveness until January 3, 2003, and directed staff to convene a technical conference to explore the issues raised by the parties. Entergy was directed to continue to offer the unfiled GOL procedure (Original GOL procedure) it had in place prior to its June 3, 2002 filing of Attachment Q.

3. On October 11, 2002, the Commission granted rehearing of the August 2 Order and found that Entergy's Original GOL procedure should have been filed with the Commission. The Commission ruled that under Section 205, Entergy cannot adopt operating practices such as its Original GOL procedure that affect reservations, scheduling and curtailment without making a filing to obtain Commission authorization. On November 12, 2002, Entergy filed a request for rehearing of that order.

4. On October 17, 2002, Entergy filed an Emergency Request for Stay of the October 11 Order, arguing that the elimination of its Original GOL procedures would harm the short-term market by requiring Entergy to perform an SIS for all daily and weekly transmission service requests. Entergy argued that SISs could not be completed in time for Entergy to respond to daily and weekly transmission service requests. On November 7, 2002, the Commission issued an Order Denying Stay and Clarifying Prior

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[4]Entergy Services, Inc., 101 FERC ¶ 61,040 (2002) (October 11 Order).

[5]Entergy's current OATT is FERC Electric Tariff Second Revised Volume No. 3.

[6]Entergy Services, Inc., 100 FERC ¶ 61,147 (2002) (August 2 Order).

Order[7] which directed Entergy to follow its OATT, which meant using its knowledge of its system (which is based on existing information and studies of its system) to determine on a non-discriminatory basis whether it can fulfill a short-term transmission service request instead of automatically performing an SIS for every such request.

5. The technical conference established in the August 2 Order was held on October 29, 2002. On November 12, 2002, Entergy filed comments in which it proposed to make extensive modifications to its GOL filing (Amended GOL) to resolve outstanding issues. Entergy further committed to study additional proposals that were raised during the technical conference and to submit a status report to the Commission by April 30, 2003.

6. On December 16, 2002, the Commission issued an order[8] dismissing without prejudice Entergy's Initial Proposed GOL procedure because the substance of its proposal had been superseded by the Amended GOL filing. The Commission found that while Entergy's Amended GOL filing represented significant progress in addressing various concerns discussed at the technical conference, it lacked the detail and clarity needed to fully evaluate the proposal. We therefore directed Entergy to refile its Amended GOL within 30 days of the issuance of the order, setting forth a specific and better-supported proposal (including revision to its OATT) to implement a GOL procedure. In the meantime, we directed Entergy to continue to grant short-term transmission service requests based on its knowledge of its system. In addition, we ordered Entergy to file its proposed status report by April 30, 2003.

7. On January 15, 2003, Entergy filed a revised Attachment Q and a further explanation setting forth in more detail its proposed revisions to the Amended GOL proposal. Under its revised Attachment Q, Entergy proposed to calculate GOLs in the direction of each of the fourteen control areas that are directly interconnected to the Entergy transmission system and to which Entergy calculates export capability. Entergy would calculate the GOLs on a rolling 30-day basis. If a generator placed multiple transmission requests, Entergy would limit the sum of the multiple reservations to the lowest GOL of any of the paths being used. On March 13, 2003, the Commission issued an order accepting the Amended GOL proposal, as revised, and required it to become effective on April 12, 2003, subject to certain conditions.

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[7]Entergy Services, Inc., 101 FERC ¶ 61,169 (2002).

[8]Entergy Services, Inc., 101 FERC ¶ 61,291 (2002).

8. On March 28, 2003, Entergy filed a request for clarification of the March 13 Order. On April 10, 2003, Dynegy Power Marketing, Inc.; Exelon Generation Company, LLC; Intergen Services, Inc.; International Paper Company; PG&E Energy Trading-Power, L.P.; and Tenaska Frontier Partners, Ltd. (collectively, Joint Intervenors) filed a request for stay of the March 13 Order. On April 14, 2003, Joint Intervenors also filed a request for rehearing, or in the alternative, request for clarification of the March 13 Order. On April 29, 2003, Entergy filed an answer to Joint Intervenors' request for rehearing and clarification.[9]

II. Discussion

A. Joint Intervenors' Request for Rehearing

1. Standard of Review of the GOL

9. Joint Intervenors argue that the Commission erred in the March 13 Order by approving Entergy's Amended GOL procedure because it is inferior to the provisions in the pro forma OATT. They assert that the Commission's approval of the Amended GOL filing abrogates Entergy's responsibility to provide transmission service whenever feasible in favor of a program that establishes pre-set limits for transmission service. Joint Intervenors reason that, under the pro forma OATT, a transmission provider must use its knowledge of its system to evaluate short-term firm transmission service requests in an expeditious and non-discriminatory manner. However, Entergy's Amended GOL proposal establishes a pre-set limit and effectively absolves Entergy from the responsibility of conducting analyses to determine if its transmission system can accommodate transmission beyond the pre-set limit. Joint Intervenors contend that the Commission failed to undertake a reasoned analysis of Attachment Q in the March 13 Order and, on rehearing, should specifically address whether and how GOLs are equal to or superior to the pro forma OATT.

10. We will uphold our approval of Entergy's Amended GOL procedure, as further clarified and modified below. We regard the Amended GOL procedure as an option[10]

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[9]Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 CFR § 385.713(d)(2003), prohibits an answer to a request for rehearing. We are not persuaded to accept Entergy's answer and, therefore, reject it.

[10]See Entergy's Transmittal Letter in Docket No. ER02-2014-000 (June 3, 2002), p.2: "In order to provide generators with an additional opportunity to participate in the

(continued...)

available to generators seeking to obtain short-term firm transmission service to Entergy's interfaces with other control areas. Entergy remains bound by the obligation of its OATT to make available, in a non-discriminatory manner, any additional available transmission capability on its transmission system. The Amended GOL procedure is another tool under Entergy's OATT, in addition to Entergy's "knowledge of its system" and the performance of system impact studies, for evaluating whether short-term transmission service is available. The GOL value is a floor rather than a ceiling for determining whether sufficient transmission capability exists -- if transmission capability exists above that pre-set limit, Entergy is obligated to make that capability available.

2. Daily or Weekly SIS Requests

11. Joint Intervenors argue that Entergy's refusal to conduct SISs for daily and weekly transmission service requests prevents generators from accessing the market through alternative avenues if their GOLs are low.

12. In its answer to the comments on the Amended GOL filing, Entergy argued that, because it had agreed to perform GOL studies using each of Entergy's 14 interfaces with neighboring control areas and had agreed to update its GOL studies on a daily basis covering a 30-day window, it would be duplicative to require Entergy to perform an SIS addressing daily and weekly transmission service requests.[11] Entergy expected that an SIS conducted within the 30-day window for which daily models are provided would reaffirm the result of the studies Entergy conducts to determine a facility's GOL. This was because the same base case model used to calculate GOLs would be used to conduct an SIS, and because the constraints monitored in an SIS subsume the constraints monitored in a GOL study. Entergy asserted that another problem with allowing requests for SIS in conjunction with GOLs was that requests for studies could force Entergy to either hold up or deny subsequent requests for transmission service that could otherwise be immediately granted based on the GOL, until the SIS was complete.[12]

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[10](...continued)
short-term market without jeopardizing system reliability, Entergy will calculate a GOL for each generating facility. "

[11]See Answer of Entergy Services, Inc. to Comments Regarding Amended GOL Filing at 19-20, Docket No. ER02-2014-006 (February 20, 2003) (Answer to Amended GOL Filing).

[12]Id.

13. In our March 13 Order, we accepted Entergy's argument that performing an SIS in these cases would be duplicative and unnecessary and denied the intervenor's request to require Entergy to perform an SIS for daily or weekly point-to-point transmission service requests. Entergy argued that the SIS for daily and weekly requests would be expected to reaffirm to results of the GOL studies. However, Entergy's expectation of duplicative results does not rule out the possibility of additional capability becoming available to the transmission customer pursuant to an SIS. Consequently, on reconsideration, we grant rehearing and require Entergy to perform a transaction-specific SIS for daily and weekly requests in an expedited manner if requested by a transmission customer that is willing to pay for the study.

3. Non-Compliant Base Case

14. Joint Intervenors argue that Entergy's Amended GOL procedure uses a non-compliant base case when calculating GOLs, which results in artificially low GOL values. They state that in their comments filed after the October 29, 2002 technical conference, they presented actual data supplied by Entergy that demonstrates that overloads already exist in the base case before the first megawatt is dispatched from merchant units. Joint Intervenors contend that Entergy would never operate its system in this manner because it would harm the system, so it redispatches its system. GOLs, however, are calculated using the original base case power flows, as opposed to the redispatched power flows, and GOLs calculated this way do not provide an accurate indication of a generator's true ability to sell into the short-term firm markets without creating overloads.

15. In its earlier comments in these proceedings, Entergy stated that the base case powerflow models it used for the calculation of the GOL values met the requirements set forth by the North American Electric Reliability Council (NERC).[13] NERC guidelines require a control area operator to return the transmission system to within operating security limits within 30 minutes of a contingency. Entergy argued that operational solutions used to reduce an overloaded facility down to acceptable operating limits should not be included in the base case because the same operational solution that relieves one overload would often simply lead to another overload on a different facility. This would result in Entergy constantly modifying the base case to eliminate post-contingency overloads. Entergy stated that these real-time solutions were not a reasonable basis for granting service on facilities that were already overloaded on a post-contingency basis

[13] See Answer to Amended GOL Filing at 29-31. See also Reply Comments of Entergy Services, Inc. to Comments Regarding Amended GOL Filing at 6-7, Docket No. ER02-2014-000 (November 19, 2002) (Reply Comments).

and that it should not be obligated to grant new transmission service where that service would exacerbate post-contingency overloads.

16. We will deny rehearing. The Commission agrees with Entergy that, under its OATT, it is not required to investigate redispatch alternatives for new transmission requests unless an SIS has been requested by a transmission customer.[14] Entergy remains under all of the obligations of its OATT. Under its OATT, Entergy is obligated to reasonably and without preference operate and conduct planning for its transmission system according to "good utility practices."[15] Entergy must use good utility practices in both operational practices and the planning methods of its transmission system. The planning base case for SIS and GOL studies are to be a reasonable simulation of Entergy's day-to-day transmission practices.

4. 3 Percent Outage Transfer Distribution Factor

17. Joint Intervenors argue that Entergy's use of a 3 percent Outage Transfer Distribution Factor (OTDF)[16] is overly conservative and that a higher OTDF would lead to a higher GOL. In their post-technical conference brief, Joint Intervenors used the Attala facility to show how Entergy's use of a 3 percent OTDF resulted in a 36 MW GOL and demonstrated that the GOL would increase to 208 MW if a 3.25 percent OTDF was used instead. Joint Intervenors further contrast Entergy's 3 percent OTDF with the 5 percent OTDF threshold the Southwest Power Pool uses when evaluating transmission service requests.

18. In its Answer to Amended GOL Filing, Entergy stated that the power flow modeling methodology was based on standard power flow modeling, not "layers of conservatism," as the Joint Intervenors alleged. Entergy further stated that it used the 3 percent OTDF threshold in accordance with NERC standards.[17]

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[14]As explained elsewhere in this order, transmission customers have the right to request an SIS.

[15]Entergy Service, Inc. Second Revised Volume No. 3 OATT definition 1.15

[16]OTDF is defined as the electric power transfer distribution factor with a specific system facility removed from service (outage). The OTDF applies only for the post-contingency configuration of the systems under study. The effect of losses is generally ignored.

[17]See Answer to Amended GOL Filing at 31-32.

19. We will deny rehearing on this issue. In our March 13 Order, the Commission stated that it would be beneficial to all parties to gain practical experience with the modeling and GOL methodology in order to determine whether the model and assumptions strike the proper balance between these two competing goals. Therefore, the Commission will permit the proposal to go into effect using the proposed 3 percent OTDF threshold for limiting elements.[18]

5. Entergy's Use of Worst Case Assumptions

20. Joint Intervenors argue that Entergy uses "worst case" assumptions, such as using the peak load to model its systems, when calculating the GOL values. They argue that these assumptions may not reflect the actual conditions on Entergy's system most of the time. Joint Intervenors state that the GOL calculations will be artificially low, and instead of protecting reliability, GOLs would simply act to keep generating units off of Entergy's system.

21. In its Answer to Amended GOL Filing, Entergy stated that the use of peak models to determine GOLs for all generating facilities on its system was consistent with standard industry practice where conducting transaction-specific SISs and ATC calculations. Entergy further stated that a transmission provider must make sure that it is capable of meeting a firm transmission request in every hour of the term of service being requested and that the calculation of GOLs must be handled on a similar basis in order to maintain reliability.[19]

22. It is standard industry practice to use peak system modeling in certain circumstances. It is recognized that such a methodology may not capture the full amount of transmission capability actually available during all hours. As a result, additional transfer capability may be available and must be offered to the marketplace. While we allow Entergy to use its peak modeling methodology when calculating GOL values on an interim basis, we remind Entergy that it is required to use its knowledge of its system, pursuant to its OATT, to identify any additional transmission capability that may be available above a transmission customer's GOL value upon request from that transmission customer. This requirement, along with the requirement that Entergy perform a transaction-specific SIS for daily and weekly transmission requests upon request of the

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[18]The Commission notes that other systems also use a 3% OTDF to identify significant impacts on transmission elements. See e.g. TRANSLink Transmission Company, L.L.C., et al., 99 FERC ¶ 61,106 (2002).

[19]See Answer to Amended GOL Filing at 27-28.

customer, should identify additional transmission capability not identified in the GOL calculations at least on an interim basis. Entergy will be required to make such additional transmission capability available on a non-discriminatory basis. Consequently, we deny rehearing on this issue.[20]

6. Seasonal Ratings and Daily GOLs

23. Joint Intervenors state that Entergy fails to make simple adjustments, such as using seasonal ratings for its facilities or using a 31-day rolling basis for daily GOL calculations, that may increase GOL values. Joint Intervenors argue that Entergy has not justified refusing to make these adjustments that would more accurately reflect the abilities of Entergy's system.

24. In its Answer to Amended GOL Filing, Entergy stated that, although there may be large swings in temperature variations during an occasional year, decades of experience operating its transmission system has shown that the climate in its service territory did not justify the use of seasonal thermal ratings.[21] Entergy further stated that it calculated daily GOLs on a 30-day rolling basis in order to mirror its obligation to post ATC under section 37.6(b) of the Commission's regulations.[22] Entergy added that the models used to determine the GOLs were related to Entergy's ATC models and it was concerned that inconsistent posting requirements could result in discrepancies between these two related calculations.[23]

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[20]We question certain assumptions, identified by Joint Intervenors, that Entergy has used in its base case analysis. For example, Entergy's base case assumptions of static peak load and no seasonal rating for transmission equipment suggests that the study may improperly simulate system overload conditions. Entergy's analysis of short-term requests should simulate what are likely to be near-term conditions. However, because Entergy's GOL methodology, as proposed, will be currently implemented during the summer season, which is the peak period on the Entergy system, we will not reject these assumptions at this time. Instead, we will examine these assumptions as part of the technical conference we are convening this fall, and after we have gathered more data on the performance of the GOLs.

[21]See Answer to Amended GOL Filing at 25.

[22]Id. Section 37.6(b)(3) requires a posting of firm ATC and TTC on a utility's OASIS for a 30-day period.

[23]See Answer to Amended GOL Filing at 28.

25. In the March 13 Order, we declined to modify Entergy's proposal, as requested by Joint Intervenors, to require it to reflect seasonal ratings for Entergy's facilities and to require a 31-day rolling basis for daily GOL calculations as requested by Joint Intervenors. We relied on Entergy's experience in operating its transmission system and the intimate relationship between the determination of ATC and GOLs in Entergy's GOL process to deny the Joint Intervenor's protests on these issues. Joint Intervenors have provided no new evidence or arguments that would persuade us to require the use of seasonal ratings on an interim basis over the summer season. However, as noted above in footnote 19, we intend to examine this issue, among others, at the fall technical conference.

7. Inefficient Use of the Transmission System

26. Joint Intervenors argue that Entergy's GOL proposal leads to inefficient use of the transmission system. They state that when Entergy assigns a generator a GOL value and prohibits a transaction because that transaction exceeds the assigned GOL, Entergy is not even claiming that this is because the transmission system cannot handle the transaction or that the transaction itself will have any effect on local constraints. Rather, Joint Intervenors argue, Entergy believes that a GOL calculation shows that, under a specific set of conditions, it is possible that a transaction could affect its system and, as a result, all transactions under any conditions are limited. Joint Intervenors argue that the GOL calculation methodology is problematic because the GOL proposal does not account for real-time dispatch of Entergy's system and the GOL calculations use conservative assumptions that may not accurately reflect the state of the system. As a result, Joint Intervenors claim that the GOL calculations do not capture the full amount of transmission capability available. That capability will go unused because merchant generators cannot access this additional capability without exceeding their GOLs.

27. In its earlier comments in these proceedings, Entergy denied that its GOL calculation methodology was overly conservative and stated that any claims of conservatism actually identify nothing more than standard utility modeling techniques and Entergy's implementation of the Commission's well-established rules and regulations.[24]

28. The Commission and intervenors will have the opportunity to review the use of the GOL process and actual operational information at the end of the summer cooling season. However, we believe that our requirement that Entergy use its knowledge of its

[24] See Answer to Amended GOL Filing at 26-32. See also Reply Comments at 11-19.

system and perform transaction-specific SISs as requested for daily and weekly firm transmission requests to identify any additional transmission capability above that identified by the GOL calculations should offset any undue conservatism built into the GOL methodology. We view the GOL value as the minimum amount of capability available to a transmission customer, and any additional capability identified by Entergy through its knowledge of the system and/or through an SIS requested and paid for by a transmission customer must be made available on a non-discriminatory basis. We believe that the use of all three requirements – i.e., GOLs, knowledge of the system and SISs – together will result in a more full assessment of short-term transmission capability available to the market.

8. Multiple Reservations

29. Joint Intervenors protest Entergy's GOL multiple reservations policy, which restricts reservations over two or more paths to the lowest GOL of any of the requested paths. Joint Intervenors state that this is an extraordinarily conservative assumption because the minimum amount that the system could handle is the GOL on the lowest path, while it is possible that the system could actually handle the combined GOL of all of the requested paths. If the paths are in opposite directions, one transaction could have a minimal effect on the other transaction, and limiting the combined reservations to the lowest GOL is inappropriate. In addition, the GOLs are calculated using a single-outage contingency. Since it is probable that the two transactions are affected by different outages, restricting combined reservations to the lowest GOL is inappropriate under a single-contingency standard.

30. In its Answer to Amended GOL Filing, Entergy stated that its policy regarding multiple reservations was appropriate, since the GOL values were calculated on a non-simultaneous basis.[25] Entergy stated that it must calculate GOL values in this manner due to the vast universe of possible combinations of simultaneous transactions. Entergy argued that it must calculate 1400 path-specific GOL values per day (14 paths for each of 100 generators) and that updating the base case used for calculating GOL values every time an additional transmission service request was granted was not practical. Consequently, since the GOLs were calculated on a non-simultaneous basis, Entergy must guard against the potential for chronic overselling of the transmission system when additional transactions were subsequently included by limiting the GOL to the lowest

[25]Each path-specific GOL value is calculated using a power flow model that includes no other transfers beyond those already included in the base case. In other words, a GOL is calculated as if it were the only transaction happening on the system other than those transactions already approved and included in the base case.

GOL value of any of the paths requested. Entergy argued that its approach struck a reasonable balance that maximizes transfer capability and maintains system reliability.[26]

31. As we stated in the March 13 Order, we believe that it will be beneficial to all parties to gain practical experience with the modeling and GOL methodology in order to determine whether the model and assumptions maximize the availability of transmission while protecting the reliability of Entergy's transmission system. In this order, we are requiring that Entergy perform an SIS for daily and weekly service if requested by a customer that is willing to pay for the study. Moreover, as stated, Entergy must make available any capability that exists above its GOL levels. This issue, among others, will be a topic of review at the fall technical conference mentioned herein.

9. Local Area GOLs

32. Joint Intervenors protest Entergy's proposal to calculate a single Local Area GOL for generators that are close to each other and to require those generators to share this Local Area GOL. In addition, they state, Entergy will impose the same restrictions on the use of Local Area GOLs as it imposes on daily, directional GOLs (such as the restrictions on multiple reservations and redirects). Joint Intervenors argue that this increases the likelihood that one of the generators in the Local Area will be shut out of the market entirely.

33. In its Answer to Amended GOL Filing, Entergy asked the Commission to accept its proposed first-come, first-served allocation methodology for a Local Area GOL value rather than the pro rata allocation recommended by Joint Intervenors. Entergy noted that the majority of the intervenors requested the first-come, first-served allocation and that the allocation was similar to the method required by its OATT for allocating available transfer capability among multiple requests for firm point-to-point transmission service requests.[27]

34. In our March 13 Order, we agreed with Entergy that the first-come, first-served methodology was consistent with its OATT and relied on a well-established set of procedures. Joint Intervenors have raised no new facts or arguments for us to reconsider our ruling. Consequently, we deny rehearing of this issue.

10. Transmission System Expansion

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[26]See Answer to Amended GOL Filing at 2-19.

[27]See Amended GOL Filing at 22-24.

35. Joint Intervenors state that a transmission provider has a "duty to expand" its system in order to meet demand and protect reliability and that Entergy's GOL proposal is shifting the burden for addressing local transmission constraints to generators instead of constructing the upgrades necessary to strengthen its system.

36. In its Reply Comments, Entergy stated that it has made approximately $460 million in transmission system upgrades to both replace existing facilities and construct upgrades necessary to reliably serve current and projected load. Entergy further argued that Joint Intervenors had not provided any credible evidence that this amount had been insufficient to meet Entergy's obligations to its retail and wholesale transmission customers.

37. Joint Intervenors' request that we find that Entergy has not met its "duty to expand" its transmission system is beyond the scope of this proceeding; this case involves how existing transmission capability should be made available, not whether there should be more capability and is consequently denied.

11. Summer Implementation

38. Finally, Joint Intervenors argue that the Commission erred in the March 13 Order by using the important summer peaking season as an experimental period to determine the effect of GOLs. Joint Intervenors argue that the summer period is generally the busiest period for merchant units. Thus, if Entergy's GOL program limits generators' access to the market, the generators will have missed out on the most lucrative revenue stream for the year.

39. We note that Joint Intervenors and others originally urged the Commission to put the Amended GOL in place in time for the summer cooling season stating that it is important that the GOL program be fully functional by May 1, 2003 so that it can be in place during the peak summer months.[28] As we have discussed above, the GOL methodology supplements the other alternatives available to generators that seek to enter Entergy's short-term firm transmission market. Consequently, we also deny rehearing of this issue.

B. Joint Intervenors' Alternative Request for Clarification

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[28] See Comments of Attala Generating Company. L.L.C., Dynegy Power Marketing, Inc.; Exelon Generation Company, LLC; Intergen Services, Inc.; International Paper Company; PG&E Energy Trading-Power, L.P.; and Tenaska Frontier Partners, Ltd. in Docket No. ER02-2014-006 (February 5, 2003).

40. Joint Intervenors also ask that if the Commission declines to grant rehearing, we clarify certain aspects of the March 13 Order. They note that the order permits Entergy to implement the GOL proposal during the summer period and proposed to convene a technical conference in the fall to assess the market effect of the GOLs. They ask us to clarify whether Attachment Q will only be in effect from April 12, 2003 to the end of the summer season or whether it is intended to be in effect indefinitely. We clarify that there is no time limit on Attachment Q. Ordering paragraph G in the March 13 Order stated that the Commission would hold a technical conference at a later date to evaluate the market implications of Entergy's GOL procedure. We clarify that we will convene a technical conference in the fall after receipt of the required operation information to discuss the experiences of the parties with the GOL methodology and its impact on the market.

41. In addition, the Joint Intervenors argue that the Commission should clarify the March 13 Order by providing quantifiable standards for determining the efficacy of the GOL program. They argue that these standards should be provided before the summer season in order to provide all parties with objective criteria against which to measure the GOL proposal. In addition, they contend that all parties should reach a consensus on the proper form for filing the data required by the March 13 Order.

42. The Commission clarifies that the standard for review of the GOL program will be whether use of the program results in transmission capability being made available on a non-discriminatory basis. Based on its review, the Commission will determine whether the assumptions worked to provide sufficient capability while ensuring reliability of the system or if it is necessary to order modifications to the base case assumptions or other aspects of the GOL program to permit increased availability to transmission customers.

C. Entergy's Request for Clarification

43. On March 28, 2003, Entergy filed a request for clarification of two provisions in the March 13 Order. First, Entergy asks that the Commission clarify whether it is allowed to exclude long-term firm point-to-point reservations from the studied generator when calculating the generator's GOL. Entergy states that it would prefer to exclude firm point-to-point reservations from the base case model it uses to calculate GOLs in order to address the concerns of certain intervenors that including such reservations may impinge upon a generator's ability to redirect its long-term firm transmission service reservations on a short-term basis.

44. Several intervenors stated that Entergy included the amount of long-term firm transmission reservations in the base case used to calculate the GOL value, then further decremented the available GOL value over a particular path by the same long-term

reservation. The intervenors argued that this resulted in a double counting of the firm reservations against the GOL value. In its Answer to the intervenors comments, Entergy offered to exclude the firm reservations from the base case used to calculate GOLs. We agree that Entergy must do so.

45. Entergy also requests clarification as to whether it should publicly post on the OASIS powerflow models and limiting elements associated with the GOL calculations, but not the numerical GOL values themselves.

46. In section 8.1 of Attachment Q, Entergy proposed to post on its OASIS the numerical path-specific GOL values for the individual generators on a password protected web site. Section 8.2 of Attachment Q addressed the public posting of the power flow models Entergy uses to calculate GOL values and the identification of limiting transmission facilities upon request of a generating facility. Calpine requested that Entergy not post on the OASIS the overloaded lines that cause a limiting GOL because that is sensitive market information and should be password-protected. Entergy stated that § 37.4(b)(3) of the Commission's Standards of Conduct prohibits employees of Entergy's merchant function from having access to information not publicly available on the OASIS. Therefore, Entergy proposed to publicly post the information on its OASIS upon request.

47. In our March 13 Order, we agreed that providing employees of Entergy's merchant function with proprietary information that is not available to the general public was in violation of our Standards of Conduct. We further stated that making information related to transmission constraints publicly available would provide transparency beneficial to the market in general. We believe that this transparency extends to the public filing of the GOL values calculated for each generating facility. Consequently, we clarify that Entergy is required to modify section 8.1 of Attachment Q to publicly post the numerical GOL values for each generating facility and modify section 8.2 to provide for the public posting of information on its OASIS related to the power flow models and transmission constraints regardless of whether such information is requested by the owner of a generating facility.

D. Request for Stay

48. On April 10, 2003, Joint Intervenors filed a request for stay, arguing that the March 13 Order improperly permits Entergy to "gain practical experience" with the GOL methodology during the important peak summer period. Joint Intervenors argue that far too much is at stake, with the independent generator community and power marketers and end users set to take the fall if Entergy's GOL experiment should go awry.

49. The Commission may stay its actions "when justice so requires."[29] In addressing motions to stay, the Commission considers: (1) whether the moving party will suffer irreparable injury without a stay; (2) whether issuing the stay will substantially harm other parties; and (3) whether a stay is in the public interest.[30] The Commission's general policy is not to stay its orders, in order to assure definiteness and finality in Commission proceedings.[31] The key element in the inquiry is irreparable injury to the moving party.[32] If the party the stay is unable to demonstrate that it will suffer irreparable harm absent a stay, we need not examine the other factors.[33]

50. Joint Intervenors assert that they will suffer irreparable harm if their request is not granted. They contend that they will suffer significant and actual damage under the GOL program because generators will not be permitted to sell as much energy in the short-term firm markets as they would absent Entergy's GOL proposal. Furthermore, Joint Intervenors claim that the GOL program will result in increased prices in the short-term firm markets for their power marketers and end users because GOLs will serve to reduce the supply of available electric power. They explain that if there is no corresponding reduction in demand, this reduced supply will lead to an increase in prices. Moreover, Joint Intervenors assert that the GOL program could result in irreparable injury to their generators. They contend that Entergy's GOL program threatens the very existence of the generators' businesses because developing and constructing generation facilities is a capital-intensive business and most merchant generators are heavily dependent on their summer revenue streams to meet their financial obligations. If generators are denied the ability to sell their product in the summer, they may eventually be forced into bankruptcy.

51. We find that Joint Intervenors' claims are based on a misunderstanding and they have not demonstrated that irreparable harm will occur absent a stay. Joint Intervenors' assume that the assigned GOL value is a ceiling and is the only option available to generators seeking short-term transmission service in the Entergy control area. However,

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[29] 5 U.S.C. § 705 (2002).

[30] See e.g, CMS Midland, Inc., Midland Cogeneration Venture Limited Partnership, 56 FERC ¶ 61,177 at 61,631 (1991), aff'd sub nom. Michigan Municipal Cooperative Group v. FERC, 990 F.2d 1377 (D.C. Cir.) , cert denied, 510 U.S. 990 (1993) (Midland).

[31] Id. at 61,630. See also Sea Robin Pipeline Company, 92 FERC ¶ 61,217 (2000).

[32] Id. at 61,621.

[33] Id.

as discussed above, the GOL procedure is one of several options available to generators seeking short-term transmission service in the Entergy control area. The GOL procedure does not preclude generators from asking Entergy to use its knowledge of its system to determine available transmission capability, nor does it preclude generators from asking Entergy to conduct a system impact study for daily or weekly service, as long as the generators are willing to pay for the SIS.

E. Request for Rehearing of October 11 Order

52. In its request for rehearing of the October 11 Order, Entergy asks the Commission to reverse the determination that Entergy's Original GOL procedure should have been filed. Entergy contends that the Original GOL procedure was a business practice that merely implemented the pro forma OATT's requirement that transmission providers employ "expedited procedures" for evaluating short-term transmission service requests and determine on a non-discriminatory basis the need for an SIS.

53. Entergy has since filed its GOL procedures before us and we have accepted, subject to modification, these procedures. In light of our decisions in the March 13 Order which accepted, subject to modification, Entergy's Directional GOL procedure and the Internal GOL Order,[34] which accepted, subject to modification, Entergy's Internal GOL procedure, we will dismiss Entergy's request for rehearing of the October 11 Order as moot.

The Commission orders:

(A) Joint Intervenors' request for rehearing or, in the alternative, clarification of the March 13 Order is granted in part and denied in part, as discussed in the body of this order.

(B) Within 30 days of the date of this order, Entergy must file revised tariff sheets to reflect the changes required in the body of this order.

(C) Joint Intervenors' request for stay of the March 13 Order is denied, as discussed in the body of this order.

(D) Entergy's request for clarification of the March 13 Order is granted.

(E) Entergy's request for rehearing of the October 11 Order is dismissed as moot.

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[34] 103 FERC ¶ 61,270 (2003).

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.